

**[Investigation No. 337-TA-369]****Certain Health and Beauty Aids and Identifying Marks Thereon; Investigation**

**AGENCY:** U.S. International Trade Commission

**ACTION:** Institution of investigation pursuant to 19 U.S.C. § 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 2, 1994, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Redmond Products, Inc. 18930 West 78th Street, Chanhassen, MN 55317. An amended complaint was filed on December 16, 1994, and supplementary letters were filed on December 22 and 23, 1994. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain health and beauty aids by reason of infringement of federally registered and common law trademarks incorporating the terms "Aussie" or "Australian." The complaint further alleges that there exists an industry in the United States with regard to the health and beauty aids at issue, and that the domestic industry is being injured or is threatened with injury because of the allegedly infringing articles.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and a permanent cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**FOR FURTHER INFORMATION CONTACT:** Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2571.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Final Rules of Practice and Procedure (59 Fed. Reg. 39022, August 1, 1994).

**Scope of Investigation:** Having considered the complaint, the U.S.

International Trade Commission, on January 6, 1995, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation or the sale within the United States after importation of certain health and beauty aids and identifying marks thereon by reason of infringement of common law rights in trademarks incorporating the terms "Aussie" or "Australian", the threat or effect of which is to destroy or substantially injure an industry in the United States; and

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation or the sale within the United States after importation of certain health and beauty aids and identifying marks thereon, by reason of infringement of certain federally registered trademarks incorporating the terms "Aussie" or "Australian," and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Redmond Products, Inc., 18930 West 78th Street, Chanhassen, Minnesota 55317.

(b) The respondent is the following company alleged to be in violation of Section 337, and is the party upon which the complaint is to be served: Belvedere International, Inc., 5675 Keaton Crescent, Mississauga, Ontario, L5R 3G3 Canada.

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-O, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Final Rules of Practice and Procedure. 59 FR 39022, August 1, 1994. Pursuant to 19 CFR 201.16(d) and section 210.13(a) of the Commission's Final Rules (59 Fed. Reg. 39022, August 1, 1994), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: January 9, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-1335 Filed 1-18-95; 8:45 am]

BILLING CODE 7020-02-P

**[Investigation No. 337-TA-361]****Certain Portable On-Car Disc Brake Lathes and Components Thereof; Commission Determination Not to Review an Initial Determination Issued on Remand; Determination of No Violation of Section 337 of the Tariff Act of 1930**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (ID) issued on November 28, 1994, by the presiding administrative law judge (ALJ) after remand by the Commission in the above-captioned investigation, thereby finding that there is no violation of section 337 of the Tariff Act of 1930 in the investigation.

**FOR FURTHER INFORMATION CONTACT:** Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3090. Copies of the non-confidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the

Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** On November 24, 1993, the Commission instituted an investigation of a complaint filed by Pro-Cut International, Inc. ("Pro-Cut") under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). The complaint alleged that two respondents imported, sold for importation, or sold in the United States after importation certain portable on-car disc brake lathes and components thereof that infringed the sole claim of U.S. Letters Patent 4,226,146 ("the '146 patent"). The Commission's notice of investigation named as respondents Hunter Engineering Company ("Hunter") and Ludwig Hunger Maschinenfabrik GmbH ("Hunger"), each of which was alleged to have committed one or more unfair acts in the importation or sale of portable on-car disc brake lathes that infringe the asserted patent claim.

The ALJ conducted an evidentiary hearing on May 2-4, 1994, and issued his final ID on August 12, 1994. He found that: (1) respondents' imported product does not infringe the asserted patent claim; (2) complainant satisfied the economic requirements for existence of a domestic industry; but that (3) there is no domestic industry because complainant is not practicing the '146 patent. Based upon his findings of no infringement and no domestic industry, the ALJ concluded that there was no violation of section 337.

On September 29, 1994, the Commission determined to review the August 12 final ID and to remand the ID in part to the ALJ for further explanation of his findings of no infringement under the doctrine of equivalents and no domestic industry. The Commission ordered the ALJ to issue an ID on the remanded issues on or before November 28, 1994. The Commission adopted the August 12 final ID in all other respects.

On November 28, 1994, the ALJ issued an ID addressing the remanded issues. The remand ID provides additional findings of fact and analysis and reiterates the ALJ's prior findings of no infringement under the doctrine of equivalents and no domestic industry. Complainant filed a petition for review objecting to both findings of the remand ID. Both respondents and the Commission investigative attorneys filed oppositions to the petition for review supporting the ALJ's findings in the remand ID. No agency comments were received.

Having considered the record in this investigation, including the August 12 final ID, the November 28 remand ID,

and all submissions filed in connection with the petitions for review of both IDs, the Commission determined not to review the November 28 remand ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 USC 1337, and sections 210.53 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.53.

Issued: January 10, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-1336 Filed 1-18-95; 8:45 am]

BILLING CODE 7020-02-P

#### [Investigation 337-TA-368]

#### **Certain Rechargeable Nickel Metal Hydride Anode Materials and Batteries, and Products Containing Same; Notice of Initial Determination Terminating Respondents on the Basis of Settlement Agreement**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has received an initial determination from the presiding administrative law judge in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Toshiba Battery Company, Ltd., Toshiba America Information System, Inc., and Toshiba America Consumer Products.

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on January 13, 1995.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**Written Comments:** Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, S.W., Washington, D.C. 20436, no later than five days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

**FOR FURTHER INFORMATION CONTACT:** Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205-1802.

Issued: January 13, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-1337 Filed 1-18-95; 8:45 am]

BILLING CODE 7020-02-P

#### [Investigation No. 337-TA-368]

#### **Certain Rechargeable Nickel Metal Hydride Anode Materials and Batteries, and Products Containing Same; Notice of Decision Not to Review Initial Determination Granting Joint Motion To Terminate the Investigation with Respect to Respondents Sanyo Electric Co., Ltd. and Sanyo Energy (USA) Corp. on the Basis of a License Agreement**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 8) issued on December 15, 1994, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainants Energy Conversion Devices, Inc. and Ovonic Battery Co., Inc. and respondents Sanyo Electric Co., Ltd. and Sanyo Energy (USA) Corp. (collectively "the Sanyo companies") to terminate the investigation as to the Sanyo companies on the basis of a licensing agreement.

**FOR FURTHER INFORMATION CONTACT:** Marc A. Bernstein, Office of the General Counsel, U.S. International Trade